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FM AMEMBASSY TBILISI
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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 TBILISI 001621

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E.O. 12958: DECL: 07/09/2017
TAGS: [PGOV](#) [PHUM](#) [GG](#)
SUBJECT: DETAINEE TREATMENT BETTER--TRANSPARENCY STILL
LACKING

REF: A. TBILISI 1042

[B](#). TBILISI 1299

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Classified By: Ambassador John F. Tefft for reasons 1.4 (b) and (d).

[1](#). (C) SUMMARY: Georgia's Ombudsman told DCM and Poloff in a meeting on 5 July that detainee treatment at pre-trial detention centers has improved due to monitoring of these venues. He recounted specific cases where independence of courts, instances of misuse of power by police, government's infringement of property rights of citizens, and inadequate prison conditions for inmates still continue. Subari expressed his satisfaction with the U.S. State Department's Human Rights Report (HRR) for Georgia which he said helped him in his work and his dealings with the Georgian executive and legislative branches. END SUMMARY.

The Role of the Public Defender Office

[2](#). (C) DCM and Poloff met with Sozar Subari, Georgia's Public Defender/Ombudsman, on 5 July. At the outset of the meeting Subari described the mandate of the Public Defender. His office is permitted to receive information from any government agency and provide recommendations to the appropriate agency; his recommendations, however, are not binding. The Public Defender's Office is a parliamentary agency and is accountable to Parliament.

Detainee Maltreatment Down, Funding Up

[3](#). (C) Subari related to DCM and Poloff that the incidents of maltreatment of pre-trial detainees are decreasing following the introduction of Ombudsman's monitoring of these venues (reftel A). As a result of "unannounced visits" by the Ombudsman's staff, the incidence of physical abuse of detainees has significantly decreased, and special record books on detainees are reviewed to ensure that detainees are being logged into the system and relatives are notified of their detention in a timely manner. Additionally, Subari noted that the increase of funding from 300,000 GEL (179, 640 USD) to 600,000 GEL (359,282 USD) for inmate health care was a positive sign, although the increase is still not sufficient and serious health problems remain in the prison health care system. He highlighted in particular the spread of tuberculosis, inadequate treatment of diagnosed inmate-patients, and poor practice of maintaining medical records as lingering problems. The subordination of the prison health system is unclear as to whether it belongs to the Ministry of Justice or to the

Ministry of Health and this lack of clarity has no one agency in a responsive role.

Lingering Problems

¶4. (C) Subari stressed that major human rights problems still are prevalent in the country due to the lack of independence of courts, instances of abuse of power by police, government's infringement on property rights, and inadequate prison conditions (reftel B). He highlighted specific instances of police falsification of evidence in the killing of Robakidze by the patrol police in 2004 and recent inhumane treatment of inmates in Rustavi prison where inmates were kept naked for the purpose of punishment. Subari underlined the inappropriate actions and corruptness of the Special Operation Department (MOIA), and their involvement in the illegal detention of three young men in Svaneti. His professional opinion is that Georgia's judicial system is not yet mature enough to ban the presence of video and television cameras in the courtroom. He acknowledged that perhaps in America this would be understandable, but in Georgia there is still strong distrust of the judicial branch and passage of a law prohibiting recording devices from the courtroom would only cement further this distrust.

Lack of Parliamentary Support

¶5. (C) Subari regretfully noted the lack of Parliament's support to his agency. He recalled in particular Parliament's reaction to his 2005 annual report which was critical of the religious minorities' situation in Georgia. In the course of his presentation, the majority of the Parliament walked out in protest. Parliament was also very

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late in adopting its resolution on the report. When the resolution was adopted, it stated that the Parliament did not share the Ombudsman's position on the religious minority issues. Subari stressed that the same reaction occurred to his 2006 report to which he is still awaiting a reply. During the last year the Public Defender's Office has submitted seven claims to the Constitutional Court of Georgia, but only one of those has been satisfied. He specifically noted a particular incident when the Parliament adopted a certain provision overruled by the Constitutional Court. The provision refers to the purchase of the minimal amount of shares in the possession of share-holders in a joint-stock company by the owners of the majority of shares at a "fair price" against the will of their owners. The Ombudsman's Office filed a lawsuit with the Constitutional Court on behalf of the owners of the minimal amount of shares and won the case, but the Parliament disregarded this precedent.

Praise for HRR

¶6. (C) Subari expressed his satisfaction with the HRR for Georgia which he said helped him in his regular work dealing with the Georgian executive and legislative branches. He expressed frustration at the lack of support for his work by the executive and legislative branches; he said that the HRR echoed many of his same concerns and that it gave additional credence to his concerns before the other two branches.

¶7. (C) Subari told Poloff that in contrast to other public structures where budgets have grown 200 per cent or more, his budget has not increased in the last three years, despite the increase in workload. He himself admits that his two priorities, the fight against torture and protection of the

rights of national and ethnic minorities are not enthusiastically embraced by the administration and often put him in direct opposition to the powers that be. He noted with pride that the prestige of his office has grown and now occupies second place only to the Georgian Orthodox Church as far as public trust.

TEFFT